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SUBJECT: CZECH REPUBLIC: POSITIVE ON PNR COLLECTION

REF: BRUSSELS 01829

¶1. Summary: Despite an annulment of the U.S.-EU agreement on the transfer of passenger name records by the European Court of Justice (Ref A), the GOCR has no objections to the data transfers and will work with the Commission to produce a new treaty similar to the old one but based on EU Pillar III authority. If such an arrangement cannot be reached by the September 30 deadline, the Czech Office of Personal Data Protection plans to authorize data transfers on a renewable six-month basis until a bilateral agreement is in place. End Summary.

¶2. Econoff met with the MFA Deputy Director for the Department of Internal Market and Related Policies Frantisek Trojacek to discuss developments related to Passenger Name Records (PNR) and to hear the GOCR's opinion about a future agreement. Trojacek made clear that GOCR is fully onboard with cooperating with the USG on this issue and has no problem transferring data for fighting terrorism and organized crime. He believed that the current PNR Agreement was a good one, and the GOCR was not overly concerned about privacy rights issues, transferring data to third countries, or using the data for purposes other than countering terrorism.

¶3. Trojacek conceded that the PNR issue was not on the top of the GOCR agenda at the moment and there is little interest in strengthening/weakening existing privacy rights over information transfer. The issue is being driven primarily by Brussels and Trojacek believes that the new agreement will be almost identical to the old one since the court made no ruling on substance.

¶4. Trojacek gave an overview of next steps: a) in the next two weeks the current PNR Agreement will be terminated, b) negotiations between the EU and U.S. will begin over the next 90 days ending September 30, c) a new agreement would be adopted in the Council and binding on all Member States. If an agreement is not reached in the Council, Member States will have to negotiate bilateral agreements with the U.S. In the CR, this means a Presidential Agreement, which can take anywhere from six to nine months as it winds its way through Parliament. In the meantime, data transfer could continue only with the consent of the Office for Personal Data Protection.

¶5. Econoff met the Director of the International Department at the Office for Personal Data Protection Mr. Ivan Prochazka to get an understanding of the role his office would play in a data transfer agreement. Prochazka explained that prior to the 2004 PNR agreement, his office granted routine six-month

permits to the Czech national airline carrier, CSA, to transfer passenger data. He said his office should know by mid-September whether a deal can be concluded by the September 30 deadline set by the ECJ. Otherwise, his office will once again be responsible for authorizing the data transfer. Although Prochazka disagrees with the GOCR on transferring passenger data for use in judicial matters or to third countries, his office will most likely re-issue six-month permits to avoid putting CSA at a disadvantage with other carriers flying to America. Prochazka remains optimistic that a deal will be concluded by the EC before the September 30 deadline.

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